



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,703	04/18/2001	Sylvain Kravtchenko	05725.0881-00	7115

22852 7590 04/22/2003

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 04/22/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,703

Applicant(s)

KRAVTCHENKO ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

1 This action is responsive to the amendment filed on March 03, 2003.

2 Claims 1-53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lim et al. (US 5,993,491) in view of Grollier et al. (US 4,842,849) and de la Mettrie et al. (WO 99/17722), for the reasons set forth in the previous office action on paper No. 12, dated 10/2/2002.

3 Claim 8 stands objected to for the reasons set forth in the previous office action on paper No. 12, dated 10/2/2002.

Response to Applicant's Arguments

5 Applicant's arguments filed on March 3/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Lim (US' 491) in view of Grollier (US' 849) and de la Mettrie (WO' 722), Applicant argues that there is no evidence of a motivation or suggestion to combine the references because the references teach different dyes system.

The examiner respectfully disagrees with the above arguments because Lim (US' 491) as a primary reference teaches and discloses a hair dyeing composition comprising the compound of 1-(4-aminophenyl) pyrrolidine as an oxidation base as recited in the claimed formula (1) (see col. 4, formula 1 and 2). Lim further teaches and suggests the use of quaternary ammonium compounds that provided hair-conditioning effects (see col. 9, lines 41-43). Grollier (US' 849) teaches in analogous art a hair dyeing composition comprising quaternary ammonium polymers such as cationic cyclic polymer of a formula (III) which is similar to the claimed formula (II) and quaternary ammonium compound of a formula (IV), which is similar to the claimed formula (III) (see col. 5, formula III and formula IV). De la Mettrie (WO' 722) teaches in other analogous art

Art Unit: 1751

cationic polymers of aminosilicone compounds such as cationic silicone polymers of a formula II, which is similar to the claimed formula VII (see page 5, formula II and page 6, lines 11-20) and cationic silicone polymers of the formulae (III) and (IV) which are similar to the claimed formulae (IX) and (VIII) (see page 7, formulae III and IV). Therefore, it would have been obvious to one having ordinary skill in the art to modify the primary reference of Lim by incorporating these polymers as taught by De la Mittrie and Grollier to make such a dyeing composition with the reasonable expectation of success because the primary reference clearly teaches and suggests the use of quaternary ammonium compounds in the hair dyeing compositions to provide hair conditioning effects, and, thus, a person of the ordinary skill in the art would expect such a composition to have similar properties to those claimed. Therefore, a prima facie case of obviousness has been established. The examiner advised the applicants to provide a data or showing to indicate that the dyeing composition of the claimed invention demonstrates superior and unobvious results over the closest prior art of record when apply to the hair.

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1751

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo
April 21, 2003




Mark Kopec
Primary Examiner